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**UTILITY  
PATENT APPLICATION  
TRANSMITTAL**

(Only for new nonprovisional applications under 37 CFR § 1.53(b))

|                        |                            |
|------------------------|----------------------------|
| Attorney Docket No.    | 4002-3468                  |
| First Inventor         | John R. BIANCHI            |
| Title                  | OPEN INTERVERTEBRAL SPACER |
| Express Mail Label No. | EV 394104977 US            |

22553 U.S. PTO  
10/7/56971**APPLICATION ELEMENTS**

See MPEP chapter 600 concerning utility patent application contents

**ADDRESS TO:**Mail Stop Patent Application  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)  
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.  
See 37 CFR 1.27.
3. ☒ Specification [Total Pages **48** ]  
(preferred arrangement set forth below)
  - Descriptive title of the Invention
  - Cross Reference to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference sequence listing, a table, or a computer program listing appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Pages **21** ]
  - ☒ Formal ☐ Informal
5. Oath or Declaration [Total Pages **4** ]
  - a. ☐ Newly executed (original or copy)
  - b. ☒ Copy from a prior application (37 C.F.R. §1.63(d))  
(for continuation/divisional with Box 18 completed)
    - i. ☐ **DELETION OF INVENTOR(S)**  
Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. §§1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
  - a. ☐ Computer Readable Form (CRF)
  - b. Specification Sequence Listing on:
    - i. ☐ CD-ROM or CD-R (2 copies); or
    - ii. ☐ paper
  - c. ☐ Statements verifying identity of above copies

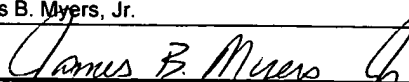
**ACCOMPANYING APPLICATION PARTS**

9. ☒ Assignment Papers (cover sheet & document(s))
10. ☐ 37 C.F.R. § 3.73(b) Statement (when there is an assignee) ☒ Power of Attorney (Associate POA)
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☒ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☐ Other: \_\_\_\_\_

**18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76 :**☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No: 10/035,074 (12/28/01); 09/453,787  
08/867,963 (6/3/97) now US 6,033,438Prior application information: Examiner: \_\_\_\_\_ Group / Art Unit: 3738

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS**☒ Customer Number or Bar Code Label **30565** or ☐ Correspondence address below

|                   |   |           |                |                                   |                  |
|-------------------|---|-----------|----------------|-----------------------------------|------------------|
| Name              | Woodard, Emhardt, Moriarty, McNett & Henry LLP                                      |           |                |                                   |                  |
| Address           | Bank One Center/Tower<br>111 Monument Circle, Suite 3700                            |           |                |                                   |                  |
| City              | Indianapolis  | State     | IN             | Zip Code                          | 46204-5137       |
| Country           | USA   | Telephone | (317) 634-3456 | Fax                               | (317) 637-7561   |
| Name (Print/Type) | James B. Myers, Jr.   |           |                | Registration No. (Attorney/Agent) | 42,021           |
| Signature         |  |           |                | Date                              | January 13, 2004 |

Express Mail Label No. **EV 394104977 US** Date of Deposit **January 13, 2004**

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR Section 1.10 on the date indicated above and is addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Signature of person mailing paper or fee  


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**FEE TRANSMITTAL  
for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)**1,318.00****Complete if Known**

Application Number

Filing Date

January 13, 2004

First Named Inventor

John R. BIANCHI

Examiner Name

Art Unit

Attorney Docket No.

4002-3468

**METHOD OF PAYMENT (check all that apply)**☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit Account  
Number

23-3030

Deposit Account  
NameWoodard, Emhardt, Moriarty, McNett  
& Henry LLP

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee, to the above-identified deposit account**FEE CALCULATION****1. BASIC FILING FEE**

| Large Entity |          | Small Entity |          | Fee Description        | Fee Paid |
|--------------|----------|--------------|----------|------------------------|----------|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |                        |          |
| 1001         | 770      | 2001         | 385      | Utility filing fee     | 770.00   |
| 1002         | 340      | 2002         | 170      | Design filing fee      |          |
| 1003         | 530      | 2003         | 265      | Plant filing fee       |          |
| 1004         | 770      | 2004         | 385      | Reissue filing fee     |          |
| 1005         | 160      | 2005         | 80       | Provisional filing fee |          |
| SUBTOTAL 1.  |          |              |          |                        | 770.00   |

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

| Total Claims              | Extra Claims | Fee from Below | Fee Paid |
|---------------------------|--------------|----------------|----------|
| 46                        | -20**= 26    | 18.00          | 468.00   |
| Independent Claims 3      | -3**= 0      |                |          |
| Multiple Dependent Claims |              |                |          |

| Large Entity |          | Small Entity |          | Fee Description  | Fee Paid |
|--------------|----------|--------------|----------|--|----------|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |  |          |
| 1202         | 18       | 2202         | 9        | Claims in excess of 20                                     |          |
| 1201         | 86       | 2201         | 43       | Independent claims in excess of 3                          |          |
| 1203         | 290      | 2203         | 145      | Multiple dependent claim, if not paid                      |          |
| 1204         | 86       | 2204         | 43       | ** Reissue independent claims over original patent         |          |
| 1205         | 18       | 2205         | 9        | ** Reissue claims in excess of 20 and over original patent |          |
| SUBTOTAL 2.  |          |              |          |  | 468.00   |

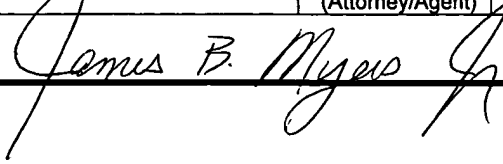
\*\*or number previously paid, if greater. For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

| Large Entity        |          | Small Entity |          | Fee Description  | Fee Paid |
|---------------------|----------|--------------|----------|--|----------|
| Fee Code            | Fee (\$) | Fee Code     | Fee (\$) |  |          |
| 1051                | 130      | 2051         | 65       | Surcharge - late filing fee or oath  |          |
| 1052                | 50       | 2052         | 25       | Surcharge - late provisional filing fee or cover sheet                     |          |
| 1053                | 130      | 1053         | 130      | Non-English specification  |          |
| 1812                | 2,520    | 1812         | 2,520    | For filing a request for ex parte reexamination                            |          |
| 1804                | *920     | 1804         | *920     | Requesting publication of SIR prior to Examiner action                     |          |
| 1805                | *1,840   | 1805         | *1,840   | Requesting publication of SIR after Examiner action                        |          |
| 1251                | 110      | 2251         | 55       | Extension for reply within first month                                     |          |
| 1252                | 420      | 2252         | 210      | Extension for reply within second month                                    |          |
| 1253                | 950      | 2253         | 475      | Extension for reply within third month                                     |          |
| 1254                | 1,480    | 2254         | 740      | Extension for reply within fourth month                                    |          |
| 1255                | 2,010    | 2255         | 1,005    | Extension for reply within fifth month                                     |          |
| 1401                | 330      | 2401         | 165      | Notice of Appeal   |          |
| 1402                | 330      | 2402         | 165      | Filing a brief in support of an appeal                                     |          |
| 1403                | 290      | 2403         | 145      | Request for oral hearing   |          |
| 1451                | 1,510    | 1451         | 1,510    | Petition to institute a public use proceeding                              |          |
| 1452                | 110      | 2452         | 55       | Petition to revive - unavoidable   |          |
| 1453                | 1,330    | 2453         | 665      | Petition to revive - unintentional   |          |
| 1501                | 1,330    | 2501         | 665      | Utility issue fee (or reissue)   |          |
| 1502                | 480      | 2502         | 240      | Design issue fee   |          |
| 1503                | 640      | 2503         | 320      | Plant issue fee  |          |
| 1460                | 130      | 1460         | 130      | Petitions to the Commissioner  |          |
| 1807                | 50       | 1807         | 50       | Processing fee under 37 CFR 1.17(q)  |          |
| 1806                | 180      | 1806         | 180      | Submission of Information Disclosure Stmt                                  |          |
| 8021                | 40       | 8021         | 40       | Recording each patent assignment per property (times number of Properties) | 80.00    |
| 1809                | 770      | 2809         | 385      | Filing a submission after final rejection ((37 CFR 1.129(a))               |          |
| 1810                | 770      | 2810         | 385      | For each additional invention to be Examined (37 CFR 1.129(b))             |          |
| 1801                | 770      | 2801         | 385      | Request for Continued Examination (RCE)                                    |          |
| 1802                | 900      | 1802         | 900      | Request for expedited examination of a design application                  |          |
| Other Fee (specify) |          |              |          |  |          |
| SUBTOTAL 3.         |          |              |          |  | 80.00    |

\*Reduced by Basic Filing Fee Paid

**SUBMITTED BY**

|                   |   |                                   |        |           |                  |
|-------------------|---|-----------------------------------|--------|-----------|------------------|
| Name (Print/Type) | James B. Myers, Jr.   | Registration No. (Attorney/Agent) | 42,021 | Telephone | (317) 634-3456   |
| Signature         |  |                                   |        | Date      | January 13, 2004 |